

**AMENDMENTS TO ECONOMIC DEVELOPMENT**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian E. Shiozawa**

House Sponsor: Rebecca P. Edwards

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**LONG TITLE****General Description:**

This bill modifies provisions related to the Governor's Office of Economic Development (GOED).

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of "high paying jobs";
- ▶ requires that the executive director of GOED be appointed by the governor, with the consent of the Senate;
- ▶ modifies provisions related to GOED's administration of tax credit incentives, including the provision of tax-increment financing;
- ▶ modifies GOED's reporting of the credit incentives; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

⚡→ **This bill provides a coordination clause.** ⚡←

**Utah Code Sections Affected:**

AMENDS:

**63M-1-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382

**63M-1-2402**, as enacted by Laws of Utah 2008, Chapter 372



63M-1-2403, as last amended by Laws of Utah 2010, Chapters 104 and 164

63M-1-2404, as last amended by Laws of Utah 2013, Chapter 392

63M-1-2405, as last amended by Laws of Utah 2013, Chapter 392

63M-1-2406, as last amended by Laws of Utah 2014, Chapter 371

63M-1-2407, as last amended by Laws of Utah 2013, Chapter 310

REPEALS:

63M-1-2408, as last amended by Laws of Utah 2010, Chapters 164, 323, and 391

**H→ Utah Code Sections Affected by Coordination Clause:**

**63M-1-2403, as last amended by Laws of Utah 2010, Chapters 104 and 164 ←H**

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 63M-1-202 is amended to read:

**63M-1-202. Director of office -- Appointment -- Removal -- Compensation.**

(1) The office shall be administered, ~~[directed; controlled;]~~ organized, and managed by ~~[a]~~ an executive director appointed by the governor, with the consent of the Senate.

(2) The executive director serves at the pleasure of the governor.

(3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 2. Section 63M-1-2402 is amended to read:

**63M-1-2402. Findings.**

~~[(1) The Legislature finds that:]~~

~~[(a) to foster and develop industry in Utah is a public purpose necessary to assure adequate employment for, and the welfare of, Utah's citizens and the growth of the state's economy;]~~

~~[(b) Utah loses prospective high paying jobs, new economic growth, and corresponding incremental new state and local revenues to competing states because of a wide variety of competing economic incentives offered by those states, and]~~

~~[(c) economic development initiatives and interests of state and local economic development officials should be aligned and united in the creation of higher paying jobs that will lift the wage levels of the communities in which those jobs will be created.]~~

~~[(2)]~~ This part is enacted to:

(1) foster and develop industry in the state, to provide additional employment opportunities for Utah's citizens, and to improve the state's economy;

(5) "Local government entity" means a county, city, or town that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within the county's, city's, or town's boundaries; and

(b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.

(6) (a) "New commercial project" means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) "New commercial project" does not include retail business.

(7) (a) "New incremental jobs" means ~~Ĥ→~~ **full-time employment positions that are filled by an employee working at least 30 hours per week for a period of at least six consecutive months and that are:] full-time employment positions that are filled by employees who works at least 30 hours per week and that are: ←Ĥ**

~~[(a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and]~~

~~[(b)]~~ (i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;

(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or

(iii) with respect to a city or town, created as a result of a new commercial project with respect to which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.

~~Ĥ→~~ (b) **"New incremental jobs" may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.**

~~[(b)]~~ (c) ~~←Ĥ~~ **"New incremental jobs" does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.**

(8) "New state revenues" means:

(a) with respect to a business entity:

(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues~~[, if any,]~~ that a business entity pays as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

121 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and  
122 Information;

123 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

124 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; ~~HB~~→ [f] or [h] and ~~HB~~←

125 (E) a combination of Subsections (8)(a)(ii)(A) through (D);

126 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,  
127 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by  
128 employees of a new or expanded industrial, manufacturing, distribution, or business service  
129 within a new commercial project as evidenced by payroll records that indicate the amount of  
130 employee income taxes withheld and transmitted to the State Tax Commission by the new or  
131 expanded industrial, manufacturing, distribution, or business service within the new  
132 commercial project; or

133 (iv) a combination of Subsections (8)(a)(i) through (iii); or

134 (b) with respect to a local government entity:

135 (i) incremental new state sales and use tax revenues that are collected under Title 59,  
136 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development  
137 zone;

138 (ii) incremental new state tax revenues~~[, if any,]~~ that are collected as a result of a new  
139 commercial project in a development zone under:

140 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

141 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and  
142 Information;

143 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

144 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; ~~HB~~→ [f] or [h] and ~~HB~~←

145 (E) a combination of Subsections (8)(b)(ii)(A) through (D);

146 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,  
147 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by  
148 employees of a new or expanded industrial, manufacturing, distribution, or business service  
149 within a new commercial project as evidenced by payroll records that indicate the amount of  
150 employee income taxes withheld and transmitted to the State Tax Commission by the new or  
151 expanded industrial, manufacturing, distribution, or business service within the new

(b) (i) With respect to ~~[one]~~ a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to ~~[one]~~ a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) ~~[The]~~ Except as provided in Subsection (3)(c)(ii), the office may not authorize or commit to authorize a tax credit ~~[if that tax credit]~~ that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year;  
or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years~~[-, whichever is less]~~.

~~§→ [(ii)] ←§ [Notwithstanding Subsection (3)(c)(i), the] §→ [The office may authorize or commit to~~

~~authorize a tax credit not exceeding 60% of new state revenues from the new commercial~~

~~project in any given year, if the eligible business entity]~~ ~~←§ [creates a significant number of high paying jobs and]~~ ~~§→ [makes capital expenditures in the state of at least \$1,000,000,000.]~~

(ii) If the eligible business entity makes capital expenditures in the state of \$1,500,000,000 or more associated with a new commercial project, the office may:

(A) authorize or commit to authorize a tax credit not exceeding 60% of new state revenues over the lesser of the life of the project or 20 years, if the other requirements of this part are met;

(B) establish the year that state revenues and incremental jobs baseline data are measured for purposes of an incentive under this Subsection (3)(c)(ii); and

(C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive previously granted under Subsection (3)(c)(i) that is based on the baseline measurements described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to authorize a tax credit of more than 60% of new state revenues in any one year. ←§

(d) (i) A local government entity may by resolution assign a tax credit ~~[that]~~ authorized by the office ~~[authorizes to the local government entity]~~ to a community development and renewal agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community development and

- 431 (a) each new agreement entered into by the office since the last report;  
432 (b) the estimated amount of new state revenues that will be generated under each  
433 agreement; ~~and~~  
434 (c) the estimated maximum amount of tax credits that a business entity, local  
435 government entity, or community development and renewal agency could qualify for under  
436 each agreement~~[-]; and~~  
437 (d) the minimum number of new incremental jobs and high paying jobs that will be  
438 created before any tax credit is awarded.

439 (3) At the reasonable request of the Governor's Office of Management and Budget, the  
440 Office of Legislative Fiscal Analyst, or the Division of Finance, the office shall provide  
441 additional information about the tax credit, new incremental jobs and high paying jobs, costs,  
442 and economic benefits related to this part, if the information is part of a public record as  
443 defined in Section 63G-2-103.

444 Section 8. **Repealer.**

445 This bill repeals:

446 Section **63M-1-2408, Transition clause -- Renegotiation of agreements -- Payment**  
447 **of partial rebates.**

448 Section 9. **Effective date.**

449 This bill takes effect on September 1, 2015.

449a **⇒ Section 10. Coordinating S.B. 179 with S.B. 18 -- Substantive and technical**  
449b **amendments.**

449c **If this S.B. 179 and S.B. 18, Governor's Office of Economic Development Revisions, both pass**  
449d **and become law, it is the intent of the Legislature that the amendments to Section 63M-1-2403**  
449e **in this bill supersede the amendments to the newly renumbered Section 63N-2-103 in S.B. 18**  
449f **when the Office of Legislative Research and General Counsel prepares the Utah Code**  
449g **database for publication.** **⇐⇒**

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Legislative Review Note  
as of 2-9-15 4:51 PM

Office of Legislative Research and General Counsel